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Sandra Ogilvie and William Ogilvie

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SANDRA OGILVIE AND
WILLIAM OGILVIE

Plaintiffs,

v.

BANK OF AMERICA, N.A.,
EMILIANO ENRIQUEZ,
LOURDES ENRIQUEZ, AND ALL
PERSONS UNKNOWN
CLAIMING AN INTEREST IN
THE REAL PROPERTY KNOWN
AS 1710 RIOS COURT, SANTA
MARIA, COUNTY OF SANTA
BARBARA and
DOES 1-50, inclusive,

Defendants.

Case No. 2:23-cv-06156

**Verified Complaint for Damages
and Injunctive Relief:**

- 1. Cancellation of Written Document**
- 2. Violation of Foreclosure Reductions Act of 2012**
- 3. Quiet Title Under California Code of Civil Procedure § 760.020**
- 4. Negligence**
- 5. Violation of California's Unfair Competition Law Under California Business & Professions Code § 17200**
- 6. Declaratory Relief**

Demand for Jury Trial

1 Plaintiffs Sandra Ogilvie and William Ogilvie (“Plaintiffs”) hereby bring this
2 Complaint for damages and injunctive relief against Defendants Bank of America, N.A.,
3 Emiliano Enriquez, Lourdes Enriquez, and All Persons Unknown Claiming an Interest in
4 the Real Property Commonly Known as 1710 Rios Court, Santa Maria, County of Santa
5 Barbara:

6 **PARTIES**

7 1. Plaintiff SANDRA OGILVIE is an individual residing in Loganville, Georgia.

8 2. Plaintiff WILLIAM OGILVIE is an individual residing in Loganville,
9 Georgia.

10 3. Defendant BANK OF AMERICA, N.A. is a National Association registered
11 to do business in the State of California.

12 4. Defendant EMILIANO ENRIQUEZ is an individual residing in Santa Maria,
13 California.

14 5. Defendant LOURDES ENRIQUEZ is an individual residing in Santa Maria,
15 California.

16 6. Defendant ALL PERSONS UNKNOWN CLAIMING AN INTEREST IN
17 THE REAL PROPERTY COMMONLY KNOWN AS 1710 RIOS COURT, SANTA
18 MARIA, COUNTY OF SANTA BARBARA are unknown.

19 7. Plaintiff is unaware of the true names and capacities of Defendants sued herein
20 under the fictitious names DOES 1-50, inclusive. Plaintiff will amend this cross-complaint
21 to show the true names and capacities of DOES 1-50, inclusive, when their identities have
22 been ascertained.

23 8. Plaintiffs are informed and believes and thereon alleges that each Defendant
24 named herein, including the Defendants named DOES 1-50, inclusive, is legally
25 responsible in some manner for the acts, omissions or events alleged in this complaint.
26 Plaintiff is informed and believes that each of the Defendants herein, including the
27 Defendants named DOES 1-50, inclusive, was the agent, servant, partner, employee, joint
28 venturer, and/or co-conspirator of each other Defendants herein, and in acting or failing to

1 act, as herein alleged, each of the Defendants was operating within the full course and
2 scope of such agency, employment, and conspiracy, and was further acting with the
3 knowledge, consent, and ratification of each and every one of the Defendants herein,
4 including the Defendants named DOES 1-50, inclusive.

5 **JURISDICTION AND VENUE**

6 9. This is an action arising under diversity of citizenship pursuant to 28 U.S.C.
7 § 1332(a). The Parties are not citizens of the same state. The amount in controversy
8 exceeds \$75,000.00, excluding interest and costs of court because Plaintiffs' damages
9 exceed \$620,000.00.

10 10. Venue is proper under 28 U.S.C. §§1391(b) and (c) because, a substantial
11 part of the events or omissions giving rise to Plaintiff's claims occurred within this
12 Court's jurisdiction and the real property, 1710 Rios Court, Santa Maria, County of Santa
13 Barbara ("Property"), at issue in this matter is within this Court's jurisdiction.

14 **GENERAL STATEMENT OF FACTS**

15 11. The real property (hereinafter the "Property") that is the subject of this action
16 is situated in the City of Santa Maria, County of Santa Barbara, State of California, with
17 the physical address 1710 Rios Court, Santa Maria, California 93454. A true and accurate
18 legal description of the Property is attached hereto as Exhibit "A".

19 **A. PLAINTIFFS' INTEREST IN THE PROPERTY DERIVES FROM VALID** 20 **TITLE VESTED IN PAMELA BROWN**

21 12. On or about August 2005, Antonio and Annabel Rivera (collectively
22 "Riveras") acquired and financed the acquisition of the Property.

23 13. On or about October 25, 2011, Pamela Brown and Riveras entered into a
24 written agreement titled Residential Purchase Agreement ("Purchase Agreement"), to
25 allow Plaintiff Pamela Brown to purchase the Property from Riveras.

26 14. Upon information and belief, and at all relevant times, Riveras were the
27 rightful owners of the Property for the purposes of the Purchase Agreement. A true and
28 accurate copy of the Purchase Agreement is attached hereto as Exhibit "B".

1 15. After the Purchase Agreement was bilaterally executed, Riveras failed to
2 perform pursuant to the Purchase Agreement. Plaintiff was forced to pursue legal action
3 for specific performance against Riveras in the Superior Court for the County of Santa
4 Barbara, case number 1394579 (“Riveras Lawsuit”).

5 16. On information and belief, and at all relevant times, Plaintiff recorded a Notice
6 of Lis Pendens with the Recorder pursuant to the Riveras Lawsuit.

7 17. As a result of the Riveras Lawsuit, Riveras were ordered to transfer the
8 property by a quitclaim deed to Plaintiff, thus making Plaintiff a successor-in-interest to
9 Riveras’ title and equity in the Property.

10 18. On or about January 20, 2015, per the court’s order, the quitclaim deed from
11 Riveras to Plaintiff Pamela Brown was signed and recorded with the County Recorder for
12 any and all interest in the Property. This Deed, and all deeds which derive their rights
13 therefrom, is the only valid title to the Property. A true and correct copy of Pamela Brown’s
14 deed is attached hereto as Exhibit “C.”

15 19. On around August 9, 2016, Pamela Brown executed a Grant Deed conveying
16 her interest in the Property to Plaintiffs William Ogilvie and Sandra Ogilvie. A true and
17 correct copy of this Grant Deed is attached hereto as Exhibit “D.”

18 **B. DEFENDANTS’ CLAIMED INTEREST IN THE PROPERTY DERIVES**
19 **FROM AN INVALID SECURITY INTEREST ORIGINALLY CLAIMED BY**
20 **PAUL FINANCIAL, LLC**

21 20. On or about August 25, 2005, Paul Financial LLC recorded a document
22 described as a deed of trust (“DOT”) with the Santa Barbara County Recorder’s Office
23 (“Recorder”). A true, accurate, and complete copy of this deed of trust is attached hereto
24 as Exhibit “E”.

25 21. Based upon information and belief, Paul Financial LLC fully drafted,
26 prepared, and recorded the DOT.

1 22. In the DOT, Paul Financial LLC laid an alleged security interest upon the
2 Property, and named Mortgage Electronic Registration Systems, Inc. (“MERS”) as its
3 nominee.

4 23. From the date of its recording to the present, the DOT did not provide the
5 required specific legal description regarding the property it was meant to encumber.

6 24. On or about January 24, 2014, Defendant Bank of America transferred their
7 invalid security interest which is based on Paul Financial LLC’s invalid 2005 Deed of Trust
8 to Ocwen Loan Servicing, LLC.

9 25. Thereafter, Ocwen Loan Servicing, LLC made numerous transfers and assigns
10 of this invalid security interest to various entities not registered to do business in California,
11 and those assignees conducted an illegal foreclosure sale on or about September 5, 2014.
12 This foreclosure sale was illegal because there was no proper notice sufficient to meet the
13 standards of California Civil Code § 2924, *et seq.* The notice was one sole posting in the
14 Santa Maria Times, on August 13, 2014, which was then removed on August 19, 2014.
15 This posting was inexplicably in Chinese. No other notice was given.

16 26. On or about September 5, 2014, the “trustee sale” allegedly took place and on
17 or about September 24, 2014 the Trustee's Deed Upon Sale was recorded with the Recorder
18 allegedly indicating that Defendant Christiana Trust was the new owner of the Property.

19 27. From January 2015 through November 2020, Plaintiffs resided at the Property
20 and the Property was their home. On or about November 2020, Plaintiffs were wrongfully
21 and illegally removed from the Subject Property due to the fraudulently conducted
22 foreclosure sale that occurred on or about September 24, 2014.

23 28. On or about April 27, 2023, Plaintiff Pamela Brown obtained a Judgment that
24 orders Paul Financial, LLC to deliver and/or cancel the DOT from 2005 as well as any
25 and all subsequent documents which derive their rights therefrom. A true, accurate, and
26 complete copy of this Judgment is attached hereto as Exhibit “F”.

27 29. Accordingly, the only valid deed recorded on title is derived from the Grant
28 Deed conveying the Property to Pamela Brown, pursuant to the January 20, 2015 deed that

1 was the result of the resolution of the sale between the former owner, the Riveras, and
2 Pamela Brown.

3 30. Despite this knowledge, Ocwen Loan Servicing, LLC and its successors in
4 interest acted as if they had good title when they did not, resulting in an illegal foreclosure
5 and seizure of the Property.

6 31. In or around 2021, Defendants Emiliano Enriquez and Lourdes Enriquez
7 engaged in negotiations to purchase the Subject Property from RESI REO Sub LLC which
8 held the invalid security interest in the Property. Defendant Emiliano Enriquez is a real
9 estate broker and was aware of the issues on title and ongoing litigation concerning title to
10 the Property.

11 32. On or about August 17, 2021, Defendants Emiliano Enriquez and Lourdes
12 Enriquez purchased the Property from RESI REO Sub LLC, with full knowledge that he
13 was not receiving clear title. Accordingly, Defendants Emiliano Enriquez and Lourdes
14 Enriquez are not a bona-fide purchasers.

15 33. As a result of the Defendants' improper and negligent actions, Plaintiffs have
16 suffered and continue to suffer significant damages, both economic and non-economic.
17 Plaintiffs are entitled to relief and an order quieting title in the name of Plaintiffs to finally
18 end this near decades-long flagrant disregard for Plaintiffs' true property rights and title to
19 the Property.

20 **I.**

21 **FIRST CAUSE OF ACTION**

22 **(Cancellation of Written Document)**

23 **(Against Defendant Emiliano Enriquez and Lourdes Enriquez)**

24 34. Plaintiffs hereby incorporate by this reference paragraphs 1 through 32 as
25 though the same were set forth herein in full.

26 35. On or about August 2005, Antonio and Annabel Rivera (collectively
27 "Riveras") acquired and financed the acquisition of the Property.
28

1 36. On or about August 25, 2005, Paul Financial LLC recorded the Deed of
2 Trust with the Recorder.

3 37. Based upon information and belief, Paul Financial LLC fully drafted,
4 prepared, and recorded the Deed of Trust.

5 38. In the Deed of Trust, Paul Financial LLC failed to provide a sufficient
6 description for the property it intended to encumber by the Deed of Trust, thus rendering
7 the said Deed of Trust void ab initio.

8 39. Every single subsequent Assignment of Deed of Trust, Notice of
9 Foreclosure, and Trustee Deed of Foreclosure, among others, which derived their “rights”
10 from the Deed of Trust are thus also void. Further, the April 27, 2023, Judgment orders
11 Paul Financial, LLC to deliver and/or cancel their 2005 Deed of Trust and all subsequent
12 deeds deriving their rights from that deed.

13 40. Plaintiffs have more than reasonable apprehension that they will be further
14 injured if the Deeds of Trusts deriving their interest from the 2005 Deed of Trust from
15 Paul Financial, LLC are left outstanding, since they have already been injured by being
16 forced out of the Property through the Non-judicial foreclosure pursued by Paul Financial
17 LLC’s purported “successors in interest.”

18 41. Consequently, Plaintiffs respectfully request that the court find that, pursuant
19 to the April 27, 2023, Judgment effectively cancels every other interest that derived their
20 interest from the invalid 2005 Paul Financial, LLC Deed of Trust, and order that
21 Defendants either deliver up or cancel their deeds and each and every other subsequent
22 interest that derived improper rights from the 2005 Paul Financial, LLC, Deed Of Trust.

23 **FIRST CAUSE OF ACTION**

24 **(Violation of Foreclosure Reductions Act of 2012)**

25 **(Against Defendant Bank of America, N.A., and Does 1 through 50, inclusive)**

26 42. Plaintiffs hereby incorporate by this reference paragraphs 1 through 41 as
27 though the same were set forth herein in full.

1 43. At all relevant times, each and every Defendant was and acted as a mortgage
2 servicer for the purposes of the Foreclosure Reduction Act of 2012, codified as Civil Code
3 § 2920, et seq. (the “Act”), and was duly required to comply with its provisions.

4 44. Plaintiffs are informed and believe, and based on such information and belief,
5 avers that on or about December 5, 2011, Martha Munoz (“Munoz”), who is a “robo signer”
6 as well as an employee of Bank of America, N.A., signed an Assignment of Deed of Trust
7 as Vice President of MERS. A true and correct copy of this Assignment of Deed of Trust
8 is attached to this Complaint as Exhibit “G”.

9 45. By signing and recording Exhibit G, Plaintiffs are informed and believe that
10 Munoz attempted to transfer the alleged rights under the void DOT from Paul Financial
11 L.L.C. to Bank of America, N.A.

12 46. Plaintiffs are informed and believe, and based on such information and
13 belief, avers that on or about May 15, 2014, contract manager of OCWEN Loan
14 Servicing, LLC (“OCWEN”) Leticia N. Arias (“Arias”), another robo signer and
15 “attorney in fact” for Bank of America, N.A., attempted to transfer the void DOT to
16 Christiana Trust, by recording an Assignment of Deed of Trust with the Recorder. A true
17 and correct copy of this Assignment of Deed of Trust is attached hereto as Exhibit “H”.

18 47. By signing and recording Exhibit H, Defendants violated section 2924.17 of
19 the Act, among others, by affirmatively failing to ensure that Exhibit H is accurate,
20 supported by competent and reliable evidence, and that Defendants had a right to file
21 Exhibit H.

22 48. Plaintiffs are informed and believe, and based on such information and
23 belief, aver that on or about May 21, 2014, Vice President of Indecomm Global Services
24 (“Indecomm”) Pangmee Yang (“Yang”), one more robo signer and “attorney in fact” for
25 Bank of America, N.A., yet again attempted to transfer the void DOT to Christiana Trust,
26 by recording an Assignment of Deed of Trust with the Recorder. A true and correct copy
27 of this Assignment of Deed of Trust is attached hereto as Exhibit “I”.

1 Defendants claim an adverse interest in real property owned by Plaintiffs Sandra Ogilvie
2 and William Ogilvie, however, this claim is without right. Defendants have no valid
3 estate, title, or interest in the Property.

4 56. Plaintiffs seek to quiet title as of the date of the recording of the void DOT
5 from Paul Financial, LLC, affirming Plaintiffs' rights to the Property in fee simple
6 granted to Plaintiffs Sandra Ogilvie and William Ogilvie by Pamela Brown's purchase of
7 the property, the Grant Deed to Pamela Brown from the Riveras, and the Grant Deed
8 from Pamela Brown to Plaintiffs Sandra Ogilvie and William Ogilvie.

9 57. Plaintiffs respectfully request that the Court find and declare that the title to
10 the Property is vested in Plaintiffs Sandra Ogilvie and William Ogilvie, alone, and that
11 Defendants, and each of them be declared to have no interest, estate, stake, right, title or
12 interest in the Property, and that Defendants, their agents and assigns, be forever enjoined
13 from asserting any interest, estate, stake, right, title or interest in the Property.

14 IV

15 FOURTH CAUSE OF ACTION

16 (Negligence)

17 (Against Defendant Bank of America, N.A. and DOES 1 Through 50)

18 58. Plaintiffs hereby incorporate by this reference paragraphs 1 through 57 as
19 though the same were set forth herein in full.

20 59. Defendant Bank of America, N.A. owed Plaintiffs a duty to properly
21 investigate the Deed of Trust from Paul Financial, LLC before assigning any rights in
22 that deed to other entities/parties.

23 60. Defendant Bank of America, N.A. breached this duty because they did not
24 properly investigate whether Paul Financial, LLC's security interest was valid before
25 assigning it to another party.

26 61. Plaintiffs have been harmed as a result of Defendant Bank of America
27 N.A.'s breach of duty and Bank of America's failure to properly investigate the propriety
28

1 of its purported security interests related to the Property. These failures are the proximate
2 and actual cause of Plaintiffs damages.

3 62. Plaintiffs have been damaged by Defendant Bank of America N.A. in an
4 amount to be proven at trial but no less than \$620,000.00.

5 **V.**

6 **FIFTH CAUSE OF ACTION**

7 **(Violation of California's Unfair Competition Law Under California Business &**
8 **Professions Code § 17200)**

9 **(Against Defendant Bank of America, N.A. and DOES 1 through 50)**

10 63. Plaintiffs hereby incorporate by this reference paragraphs 1 through 62 as
11 though the same were set forth herein in full.

12 64. Pursuant to Business and Professions Code § 17200, regarding unfair
13 competition, states in pertinent part that, "... unfair competition shall mean and include
14 any unlawful, unfair or fraudulent business act or practice ..."

15 65. Defendants' actions were unlawful and unfair in that they violated, among
16 other things, but not limited to, Civil Code §§ 2924f, 2924.12, 2924.17, 2924.19.

17 66. Defendants also improperly disseminated a publication and statement
18 concerning the Property that was untrue or misleading.

19 67. Plaintiffs believe, and thereon allege, that all Defendants received a benefit
20 at Plaintiffs' expense, and Plaintiffs' suffered an injury and loss of the Property caused by
21 Defendants' unfair competition and violation of Section 17200 through the above-listed
22 actions.

23 68. As a proximate result of Defendants' unlawful and unfair business practices,
24 pursuant to California Business and Professions Code § 17203, Plaintiff is entitled to
25 injunctive relief and the restoration of her interest in the Property which was acquired by
26 unfair competition.

27 **VI.**

28 **SIXTH CAUSE OF ACTION**

(Declaratory Relief Against Emiliano Enriquez, Lourdes Enriquez and DOES 1 through 50)

69. Plaintiffs hereby incorporate by this reference paragraphs 1 through 68 as though the same were set forth herein in full.

70. Plaintiffs seek an order declaring that Plaintiffs Sandra and William Ogilvie are the rightful title holders to the Property as they are the successors in interest to Pamela Brown.

71. Plaintiffs also seek an order declaring that the April 27, 2023, Judgment effectively cancels the invalid 2005 Deed of Trust recorded by Paul Financial, LLC and any and all claims of right or interest in the Property deriving their rights from that DOT.

72. Plaintiffs Sandra Ogilvie and William Ogilvie seek an order that they are the sole owners in fee simple of the Property.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows against all Defendants:

1. For declaratory relief that Plaintiffs Sandra Ogilvie and William Ogilvie are the sole owners in fee simple of the Property;
2. For an order cancelling any deeds held by Defendants to the Property;
3. That the Court order judgment quieting title in Plaintiffs Sandra Ogilvie and William Ogilvie's favor, as owners of the Property in fee simple;
4. That the Court order that Plaintiffs Sandra Ogilvie and William Ogilvie be given possession of the Property;
5. For compensatory damages in an amount to be proven at trial;
6. For general damages in an amount to be proven at trial;
7. For special damages in an amount to be proven at trial, including, but not limited to, loss of monies due to loan interest change and loss of equity;
8. For costs of proceedings and litigation;
9. Pursuant to California Business & Professions Code § 17203, that all Defendants, their successors, agents, representatives, employees, and all

persons who act in concert with them be permanently enjoined from committing any acts of unfair competition in violation of §§ 17200 and 17500, including, but not limited to, the violations alleged herein.

10. Pursuant to California Business & Professions Code § 17500, \$2,500.00 for each violation of Section 17500, where a civil penalty of \$2,500.00 for each violation of Section 17200 and Section 17500, for a total penalty of \$5,000.00 for each unlawful act, ensues.
11. For punitive damages in an amount to be proven at trial;
12. For attorneys' fees and costs pursuant to the Act;
13. For such other and further relief as the Court may deem proper.

Dated: July 28, 2023

STONE & SALLUS, LLP

By: /s/ Jason M. Stone
JASON M. STONE
SCOTT J. KALTER
*Attorneys for Plaintiffs Sandra Ogilvie,
William Ogilvie, and
Estate of Pamela Brown, by and through
Sandra Ogilvie*

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial for all issues so triable.

Dated: July 28, 2023

STONE & SALLUS, LLP

By: /s/ Jason M. Stone
JASON M. STONE
SCOTT J. KALTER
*Attorneys for Plaintiffs Sandra Ogilvie and
William Ogilvie*